

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

2010 JAN 22 P 1:25

Samad H. Castro

Plaintiff(s),

v.

Bayonne Housing Authority,

Tricia O'Brien,

Civil Action No. 10-403 (DRD)

John T. Mahon

Defendant(s).

COMPLAINT

COMES NOW hereby the plaintiff[s], Samad H. Castro,
(hereinafter plaintiff) appearing Pro Se, and for a complaint against
the defendant[s] above named, states, alleges, and avers as follows:

JURISDICTION

1. This Court has subject matter jurisdiction under 28 U.S.C. sections 1331 and 1343.
2. This Court has subject matter jurisdiction under 42 U.S.C. section 3613(a)
3. This action is commenced pursuant to 28 U.S.C. sections 2201, 2202 and 42 U.S.C., section 1983.

4. This action is also commenced pursuant to 42 U.S.C. section 3613

GENERAL ALLEGATIONS

1. The plaintiff(s), Samad H. Castro is a citizen of the State of New Jersey, United States of America.
2. Venue is proper under 28 U.S.C. § 1391 because the actions giving rise to the plaintiff allegations occurred in the District of New Jersey, the subject entity is located in the District of New Jersey, and the Defendant(s) resides in and does business in the District of New Jersey.
3. Upon information and belief, defendant(s), Bayonne Housing Authority, Tricia O'Brien and John T. Mahon at all times pertinent to the complaint have owned and/or operated a public entity under the Fair Housing Amendments Act of 1988, Title II and III of Americans with Disabilities Amendments Act of 2008 and also Section 504 of the Rehabilitation Act of 1973. Defendant(s)' entity establishment is the Bayonne Housing Authority at 549 Avenue A, Bayonne, New Jersey 07002. (a public housing authority)

4. This complaint is brought by the aggrieved person, (the plaintiff),

to enforce the provisions of Title II and Title III of the

Americans with Disabilities Amendments Act of 2008,

42 U.S.C. § 12101, 42 U.S.C. § 12181 – 12189 (Title II)

42 U.S.C. § 12131 – 12165 (Title III)

5. This complaint is brought by the aggrieved person, (the plaintiff),

to enforce the provisions of the Rehabilitation Act of 1973,

29 U.S.C. § 701, § 794

6. This complaint is brought by the aggrieved person,

(the plaintiff), to enforce the provisions of Title VIII of the

Civil Rights Act of 1968 (the Fair Housing Act), as amended by

the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601, et seq.

A. Defendant(s) has violated Title II and III of the Americans with

Disabilities Amendments Act of 2008, 42 U.S.C. § 12101,

42 U.S.C. § 12181 – 12189 (Title II),

42 U.S.C. §§ 12131 - 12165 (Title III) by discriminating against persons on the basis of disability and subjecting persons with disabilities to discrimination, from the full and equal enjoyment of, services, privileges, advantages, accommodations, and has denied persons with disabilities such opportunities.

Defendant(s) operates a public entity or any such entity and place of public accommodation and has denied or otherwise made a failure and neglected to provide to persons with disabilities a reasonable accommodation or modification in policies, practices, or procedures, when such action are necessary to afford such services, privileges, advantages, or accommodations to individuals with disabilities. Title III of the ADA prohibits discrimination on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).

Defendant(s)' establishment is a place of public accommodation within the meaning of Title III because it is of other "service establishment." 42 U.S.C. § 12181(7)(F).

As the operators and/or owners of such establishment, defendant(s) is a public accommodation within the meaning of Title III, 42 U.S.C. § 12181(7)(F) and is therefore subject to the nondiscrimination requirements of Title III of the ADA. Title III also prohibits excluding or otherwise denying equal goods, services, facilities, and accommodations to an individual because of the known disability of that individual's spouse or other related or associated individual. 42 U.S.C. § 12182(b)(1)(E).

B. Defendant(s) has violated the Rehabilitation Act of 1973, 29 U.S.C. § 701, § 794(a), by discriminating against persons and excluding persons on the basis of disability and subjecting him to discrimination, from use of program benefits and participation in connection with the defendant(s) housing program which receives federal financial assistance.

C. Defendant(s) has also violated Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act), as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601, et seq.

In violation of 42 U.S.C. § 3604 (c) and refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations is necessary to afford such person equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604 (3) (b)

D. Likewise, and also for the purposes of subsection (c) above this paragraph, the defendant(s) is also engaged in the business of selling or renting dwellings as defined under 42 U.S.C. § 3603 (c) and therefore with respect to the defendant(s)' services, activities or programs thereof, such services, activities, or programs thereof likewise would also be with respect to the sale or rental of a dwelling in the same manner.

7. Plaintiff is an individual with disabilities within the meaning of the ADA. 42 U.S.C. § 12102, that has physical, emotional and mental impairments and suffers from and has experienced life-threaten trauma. Plaintiff has catastrophic injuries to his lower left-side face area, which has shattered, permanently damaged and significant amount of loss of chine bone and has sustained permanent nerve damages to his lower facial jaw and chine bone area as a result of

the injuries. In addition, plaintiff sustained significant permanent injury and nerve damages to his upper left-side chest area, just a few inches above his heart. Plaintiff also has been diagnosed with post traumatic stress disorder and to date he is still emotionally and mentally affected by the tragedy he experienced and the nature of such tragedy and injuries, among other things. As a result, plaintiff physiological and physical conditions are physical or mental impairments, and they substantially limit his performance of one or more major life functions, such as sleeping, eating, lifting, bending, performing manual tasks, caring for oneself and working.

Plaintiff also has a record of having a disability. Plaintiff verbally explained and gave written notice to defendant(s) that he is urgently required to undergo more complex surgeries arising from his impairments and also submitted specific written documentation from his medical surgeons, clear evidence indicating the same. Plaintiff has also explain to defendant(s) and mailed to defendant(s) written notice of his immediate housing needs, which could have been easily accommodated, and that in his disabilities, in order to safely and effectively undergo or rehabilitate from such more complex surgeries

that he needs self-sufficiency independence and certain accommodations such as an exemption from the defendant(s)' housing program's waiting list, to immediately, fully participate in, and equally enjoy the benefits of the defendant(s)' Housing Choice Voucher Program.

All Plaintiff want, but for the humiliating discriminatory conducts by the defendant(s), was to be reasonably accommodated as it is necessary in his disabilities, to immediately participate in, and equally enjoy the privileges and benefits of the defendant(s)' Housing Choice Voucher Program, but the establishment and it's services is inaccessible to persons with disabilities.

8. Nevertheless, defendant(s) has not eliminated it's discriminatory practices and institutional barriers that prevents persons with disabilities an opportunity from receiving accommodations, equally participating, enjoying in or benefiting from the housing services of the defendant(s)' Public Housing Authority's establishment.

9. To assist businesses with complying with the ADA, Congress has enacted a tax credit for small businesses and a tax

deduction for all businesses. See Section 44 and 190 of the IRS Code. An eligible small business is allowed a tax credit equal to 50% of the amount of the eligible access expenditures between \$250 and \$10,500 for any tax year. A business that removes architectural barriers e.g., by modifying ramps, grading, entrances, doors and doorways, may receive an annual tax deduction of up to \$15,000 each year.

10. On July 26, 1990, Congress enacted the Americans with Disabilities Act, 42 U.S.C. section 12101, et seq., and amended the Act in 2008, establishing the most important civil rights law for persons with disabilities in our country's history.

The Congressional statutory findings include:

Sec. 12101. Findings and purpose

(a) Findings

The Congress finds that

(1) physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination;

(2) historically, society has tended to isolate and segregate

individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(7) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(8) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) Purpose

It is the purpose of this chapter

- (1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
- (2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

- (3) to ensure that the Federal Government plays a central role in enforcing the standards established in this chapter on behalf of individuals with disabilities; and
- (4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

Sec. 12101 note: Findings and Purposes of ADA Amendments Act of 2008, Pub. L. 110-325, § 2, Sept. 25, 2008, 122 Stat. 3553, provided that:

(a) Findings

Congress finds that -

- (1) in enacting the Americans with Disabilities Act of 1990 (ADA), Congress intended that the Act "provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities" and provide broad coverage;
- (2) in enacting the ADA, Congress recognized that physical and mental disabilities in no way diminish a person's right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers;
- (3) while Congress expected that the definition of disability under the ADA would be interpreted consistently with how courts had applied the definition of a handicapped individual under the Rehabilitation Act of 1973, that expectation has not been fulfilled;
- (4) the holdings of the Supreme Court in *Sutton v. United Air Lines, Inc.*, 527 U.S. 471 (1999) and its companion cases have narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress intended to protect;
- (5) the holding of the Supreme Court in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002) further narrowed the broad scope of protection intended to be afforded by the ADA;
- (6) as a result of these Supreme Court cases, lower courts have incorrectly found in individual cases that people with a range of substantially limiting impairments are not people with disabilities;
- (7) in particular, the Supreme Court, in the case of *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002), interpreted the term "substantially limits" to require a greater degree of limitation than was intended by Congress; and

(8) Congress finds that the current Equal Employment Opportunity Commission ADA regulations defining the term "substantially limits" as "significantly restricted" are inconsistent with congressional intent, by expressing too high a standard.

(b) Purposes

The purposes of this Act are -

- (1) to carry out the ADA's objectives of providing "a clear and comprehensive national mandate for the elimination of discrimination" and "clear, strong, consistent, enforceable standards addressing discrimination" by reinstating a broad scope of protection to be available under the ADA;
- (2) to reject the requirement enunciated by the Supreme Court in Sutton v. United Air Lines, Inc., 527 U.S. 471 (1999) and its companion cases that whether an impairment substantially limits a major life activity is to be determined with reference to the ameliorative effects of mitigating measures;
- (3) to reject the Supreme Court's reasoning in Sutton v. United Air Lines, Inc., 527 U.S. 471 (1999) with regard to coverage under the third prong of the definition of disability and to reinstate the reasoning of the Supreme Court in School Board of Nassau County v. Arline, 480 U.S. 273 (1987) which set forth a broad view of the third prong of the definition of handicap under the Rehabilitation Act of 1973;
- (4) to reject the standards enunciated by the Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002), that the terms "substantially" and "major" in the definition of disability under the ADA "need to be interpreted strictly to create a demanding standard for qualifying as disabled," and that to be substantially limited in performing a major life activity under the ADA "an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people's daily lives" ;
- (5) to convey congressional intent that the standard created by the Supreme Court in the case of Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002) for "substantially limits", and applied by lower courts in numerous decisions, has created an inappropriately high level of limitation necessary to obtain coverage under the ADA, to convey that it is the intent of Congress that the primary object of attention in cases brought under the ADA should be whether entities covered under the ADA have complied with their obligations, and to convey that the question of whether an individual's

impairment is a disability under the ADA should not demand extensive analysis; and

(6) to express Congress' expectation that the Equal Employment Opportunity Commission will revise that portion of its current regulations that defines the term "substantially limits" as "significantly restricted" to be consistent with this Act, including the amendments made by this Act.

Sec. 12102. Definition of disability

As used in this chapter:

(1) Disability

The term "disability" means, with respect to an individual

- (A) a physical or mental impairment that substantially limits one or more major life activities of such individual;
- (B) a record of such an impairment; or
- (C) being regarded as having such an impairment (as described in paragraph (3)).

(2) Major Life Activities

(A) In general

For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

(B) Major bodily functions

For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(3) Regarded as having such an impairment

For purposes of paragraph (1)(C):

- (A) An individual meets the requirement of "being regarded as having such an impairment" if the individual establishes that he or she has been subjected to an action prohibited under this chapter because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.
- (B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

(4) Rules of construction regarding the definition of disability

The definition of "disability" in paragraph (1) shall be construed in accordance with the following:

- (A) The definition of disability in this chapter shall be construed in favor of broad coverage of individuals under this chapter, to the maximum extent permitted by the terms of this chapter.
- (B) The term "substantially limits" shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.
- (C) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.
- (D) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.
- (E)
 - (i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as
 - (I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;
 - (II) use of assistive technology;
 - (III) reasonable accommodations or auxiliary aids or services; or
 - (IV) learned behavioral or adaptive neurological modifications.
 - (ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.
 - (iii) As used in this subparagraph
 - (I) the term "ordinary eyeglasses or contact lenses" means lenses that are intended to fully correct visual acuity or eliminate refractive error; and
 - (II) the term "low-vision devices" means devices that magnify, enhance, or otherwise augment a visual image.

Sec. 12103. Additional definitions

As used in this chapter

(1) Auxiliary aids and services

The term "auxiliary aids and services" includes

- (A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(C) acquisition or modification of equipment or devices; and

(D) other similar services and actions.

(2) State

The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

FURTHER ALLEGATIONS

1. The defendant(s) (Bayonne Housing Authority) whose is a "public entity" as that term defined under 42 U.S.C. § 12131 (1) is also a place of public accommodation and receives federal grants and assistance; The defendant(s) is committed to unlawfully denying, excluding and otherwise making unavailable to the plaintiff whose has physical and mental disabilities, such reasonable accommodations, and the opportunity to equally participate in, and benefit from it's Housing Choice Voucher Program and has discriminated against an individual with disabilities on the basis of their disabilities in connection with

the operation of the defendant(s)' housing authority's housing programs, services and activities. The defendant(s) has also refused the disabled plaintiff, and otherwise made unavailable a reasonable accommodation, where necessary, so that the housing program is readily accessible and achievable for immediate use and enjoyment by the disabled plaintiff. Furthermore, the defendant(s) has failed to comply with Title II and Title III of the ADA Act and the ADA purposes and findings as congress amended 2008 (42 U.S.C. §§ 12101) and in that, unlawful violations of the Americans with Disabilities Amendments Act as congress amended, Section 504 Rehabilitation Act of 1973 [29 U.S.C. § 701, § 794(a)] and Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act), as amended by the Fair Housing Amendments Act of 1988, (42 U.S.C. § 3601, et seq.)

2. The plaintiff gave the defendant(s) along with his application to participate in their Housing Choice Voucher Program and an application for reasonable accommodation, also a letter dated September 10th, 2009 from his primary surgical physicians

explaining what caused the plaintiffs' physical impairments and the rehabilitation requirements further regarding the plaintiffs' disabilities. The plaintiff also submitted a letter dated September 2008 from the Social Security Administration stating that he is a disabled individual, which was raised from the plaintiffs' record of physical and mental impairments received when he encountered, suffered and experienced life-threatening tragedy in April of 2008 that bring rises to his current impairments and disabilities. In a October 2009 letter the disabled plaintiff tried to explain or indicate to the defendant(s) in the best of his abilities, the needs for reasonable accommodations, his current living situation, and that as a disabled individual with unreconstructed physical impairments, that he had more needed surgeries to undergo and that in order to safely, effectively undergo or safely, and effectively recover from such physical surgeries, that he requires and need immediate participation in housing of his choice to have an equal opportunity to participate in, and benefit from the housing services of the defendant(s). Plaintiff also stated his need for a safe and decent place to live under his mental and physical conditions to equally enjoy a civic life outside of areas of

high poverty and crime neighborhoods. The defendant(s) failed to provide the reasonable accommodation requested, where it has been established and necessary to afford the plaintiff such opportunity, services, benefits and privileges.

3. The plaintiff requested an exemption from the defendant(s)' Housing Choice Voucher Programs' waiting list which currently exceeds excessive years or impracticable waiting periods for persons with disabilities; so needed as a reasonable accommodation to avoid that such barrier and activity, the plaintiff made request for such accommodations, the defendant(s) at that time required plaintiff to fill out a "reasonable accommodation request form" and a "disability verification form". Defendant(s)' Tricia O'Brien verbally stated to the plaintiff, that, in order for the Bayonne Housing Authority to even consider or look over an application for a reasonable accommodation request, that that was the Housing Authority's appropriate administrative process for any individual wishing to receive a reasonable accommodation.

Defendant(s)' Tricia O'Brien further stated to the plaintiff that,

after the forms were filled out and completed in it's entirety and the plaintiffs' disability was verified that the Bayonne Housing Authority would inform him through mail correspondence regarding it's decision of plaintiffs' request for reasonable accommodation. Weeks later, the plaintiff received that correspondence regarding his request for reasonable accommodation. Plaintiff was injured not only by the defendants willful and consistent discriminatory manner but by the defendant(s) decisions as regarding plaintiffs' request for reasonable accommodation. Plaintiff states that the corresponding notice, dated December 25th, 2009 in paragraph three (3) of the notice, decided and stated that "In concerning plaintiff request for reasonable accommodation that the defendant(s) did verify plaintiffs' disability but that the provider of the plaintiffs' disability verification, however, did not submit any documents verifying that his requested modifications/accommodations were related to his disability and because so, that there was no reasonable accommodation related to plaintiffs' disability that the defendant(s) could act upon." Such corresponding notices and statements were made in violation of the Fair Housing Amendments Act of 1988, (42 U.S.C. §§ 3601, et seq.) 42 U.S.C. §§ 3604(c), and defendant(s)

knowingly, intentionally, willfully and unjustly refused and otherwise made unavailable a reasonable accommodation and without regards to human rights of others, had disregarded plaintiff reasonable accommodation request in rules, policies, practices and services when such accommodation is necessary to afford such person equal opportunity to use and enjoy a dwelling, in violation of the Fair Housing Amendments Act of 1988, (42 U.S.C. §§ 3601, et seq.) 42 U.S.C. § 3604 (3)(b).

Also acting in total disregard for the Americans with Disabilities Amendments Act of 2008 as amended, Congress findings and purposes.

The defendant(s) knew that an accommodation was more likely than not, required, and that it could have been readily provided but however failed to make that accommodation in a way that bespeaks more than negligence and has elements of deliberateness by failing to consider a disabled individual's needs.

Defendant(s) acted with reckless indifference to a human life and a reckless indifference to the federally protected rights of others.

4. Plaintiff contends that after the defendant(s) use their administrative discretion and had already verified and been alerted that he in fact has a disability, that in itself

and therefore made to be known, is a record of impairment, or shows a record of impairment, irregardless of the disability, and that the defendant(s) in it's public positions of responsibility and accountability, knew, or should have known from that point that it had a "legal duty" to provide an accommodation to a individual with a disability, but instead, on account of that duty, had purposely failed to provide the legal duty known, needed and required by a individual with a disability. Plaintiff also contends that his "major life activities" affected, include sleeping, eating, lifting, bending, performing manual tasks, caring for oneself and working. Plaintiff suffers from limitation of these major life activities, which arises from his physical, emotional and mental impairments. By the time defendant(s) had verified that plaintiff had a disability, defendant(s) had already perceived on the basis of the plaintiffs' disability and his related association (spouse) that his reasonable accommodation request would cause defendant(s) obviously an unnecessary action to accommodate and because of his absence of having or using auxiliary aids or services such as a wheelchair, cane, or any other obvious or noticeable devices that most disabled individuals today are perceived to have or need, decided that the

plaintiffs' disability did not constitute or meet a need for reasonable accommodation, thereby dangerously and purposely neglecting the underlying fact and other materiel base facts given, that he is a individual with a disability, subjecting plaintiff to harmful, unnecessary and unavoidable discrimination and by also making a failure to take such steps as maybe necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids or services, in violation of, Title III of the ADA Act as amended 2008, 42 U.S.C. § 12182(a)(2)(a)(iii) and excluding or otherwise denying equal goods, services, benefits, privileges, and accommodations to an individual because of the known disability of that individual's spouse or other related or associated individual, in violation of, 42 U.S.C. § 12182(b)(1)(E). Upon information and belief, the defendant(s) and their conduct described above and herein is unconstitutional and a violation of plaintiff's rights guaranteed by the United States Constitution under the 14th Amendment.

5. The defendant(s) and their conduct has used, created and caused the imposition of eligibility criteria that screen out or tend to screen out an individual with a disability from fully and equally enjoying, services, privileges, advantages or accommodations and had also utilized administrative methods that has caused to have the effect of discrimination on the basis of disability in violation of Title III of the Americans with Disabilities Amendments Act as amended 2008, 42 U.S.C. § 12182 (2) (a) (i) (ii), 42 U.S.C. § 12182 (a) (d) (i), which is a violation of Title II of the Americans with Disabilities Amendments Act as amended 2008, 42 U.S.C. §§ 12132. The defendant(s)' discriminatory conduct described in this complaint has caused the plaintiff unnecessary general damages, depression, mental anguish and emotion distress. Plaintiff contends that not only has he suffered general damages, but the extent to prepare and file this complaint in federal court on the basis of such complaint and its' effects has also caused him further unnecessary inconvenience, embarrassment and humiliation.

6. Plaintiff has a reasonable likelihood of success on the merits of his claims that the defendant(s)' decision to deny, failure or otherwise make unavailable a reasonable modification or accommodation in policies or practices to a disabled person or cause to have the effect of discrimination by using certain administrative methods, using the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability, subjecting to, and discriminating on the basis of disability against any such individual and their related association by any such entity while being a recipient of federal funding is in violation of law.

The defendant(s)' discriminatory conduct and unlawful violations is also creating an undue delay in the plaintiff undergoing his reconstructive surgeries for his physical impairments and he will continue to suffer and will face a substantial threat of irreparable damage or injury if the defendant(s) is not enjoined and a preliminary injunction is not granted.

The balance of harms weighs in favor of the plaintiff seeking the preliminary injunction because he is a disabled individual and quickly needs to undergo multiple complex reconstructive surgeries and is in need of immediate housing in order for him to, safely and effectively undergo and safely and effectively recover from such complex surgeries in his disabilities. Whether state created, locally administered Programs or any program whose receives federal assistance for its' purposes, can be used, amended and replaced but with respect to an individual with disabilities, a human life and its natural needs or experiences, that in itself cannot be replaced.

Public policy and interest favors the preservation of the status quo, favors equal opportunity and accessibility for all individuals with disabilities, favors the prevention of homelessness, favors the safety and security of persons, favors the purposeful use of programs that are funded by the federal government for such purposes, favors observance of agency regulations and policies and thereby favors the granting of a preliminary injunction.

7. Jury Trial Demanded

WHEREFORE, the plaintiff pray for judgment against defendant(s) and each of them, as follows:

1. For a temporary restraining order, a preliminary injunction, and a permanent injunction, all enjoining defendants, and each of them, directly and indirectly and their agents, servants, employees, successors and all persons acting under, in active concert with, or for them, from:
 - a. Discriminating against plaintiff, his related association and any individuals with a disability and denying, excluding, or otherwise making unavailable, reasonable accommodations and modifications for any such individuals, to ensure that goods, services, facilities, benefits, privileges and accommodations are afforded to individuals with disabilities on a equal opportunity basis, in a nondiscriminatory manner.

- b. Denying, refusing, or otherwise exclude, any individual with a disability from the full and equal participation and enjoyment of, benefits, services, privileges, advantages and accommodations in connection with the defendant(s)' housing programs and its' operations.
- c. Using the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability.
- d. Failing or refusing to take such affirmative steps as maybe necessary to restore, as nearly as practicable, the victim of the defendant(s)' past unlawful practices to the position they would have been in but for the discriminatory conduct.
- e. Failing or refusing to adopt and implement a policy of nondiscrimination against persons with disabilities.

A. To make their housing programs, accommodations, benefits, privileges and services readily accessible for and usable by individuals with a disability on a nondiscriminatory equal opportunity basis.

B. To adopt and effectively implement an administrative plan that fully comply with Title I, II and III of the Americans with Disabilities Amendments Act of 2008, Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act as amended.

2. For an order requiring defendants to show cause, if any they have, why they should not be enjoined as hereinafter set forth, during the pendency of this action; and why a preliminary injunction should not be issued.

3. For compensatory damages in the sum of \$ 50,000 to compensate plaintiff for the discrimination experienced, plus damages in such further sums as may be sustained and as are ascertained before final judgment herein;

4. For award of applicable attorney fees herein incurred;

5. Waive the requirement of the payment of security.

6. An award of punitive damages because of the intentional and willful nature of defendants conduct pursuant to 42 U.S.C. sec. 3613 (c) (1) for the violation of 42 U.S.C. sec. 3601, et seq.
7. order such other further relief as the court deems proper and as the interest of justice may require.

I declare under the penalty of perjury that everything stated herein is true and true to the best of my knowledge, information and belief and is brought grounded in good faith.

Respectfully Submitted,



Samad H. Castro
01/22/2010

Samad H Castro

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